



Number: D97-1

Serving the People of California

DIRECTIVE

Date: July 21, 1997

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TO: SERVICE DELIVERY AREA ADMINISTRATORS
PRIVATE INDUSTRY COUNCIL CHAIRPERSONS
JTPD PROGRAM OPERATORS
EDD JOB SERVICE OFFICE MANAGERS
JTPD STAFF

SUBJECT: IMPLEMENTATION OF JTPA WAIVERS

EXECUTIVE SUMMARY:

Purpose:

This Directive provides information to the Service Delivery Areas (SDA) on the status of the state's Job Training Partnership Act (JTPA) waiver plan, and instructions for requesting specific waivers to expedite implementation at the local level.

Scope:

All SDAs must implement the three statewide waivers. Implementation of the nine optional waivers is a local decision.

Effective date:

This Directive is effective immediately.

REFERENCES:

- Public Law 104-208
- Training and Employment Information Notice (TEIN) 11-96, November 8, 1996, Subject: Statutory and Regulatory Waiver Authority of the Job Training Partnership Act and Wagner-Peyser Act
- Training and Employment Guidance Letter (TEGL) 6-96, April 1, 1997, Subject: Guidelines for Implementing Job Training System Improvements Through Waivers of the Job Training Partnership Act (JTPA) and the Wagner-Peyser Act
- JTPA Information Bulletin B96-84, dated January 13, 1997, Subject: JTPA/Wagner-Peyser Waiver Authority

- JTPA Information Bulletin B96-112, dated March 7, 1997, Subject: JTPA/Wagner-Peyser Waiver Requests Process
- JTPA Information Bulletin 96-130, dated April 24, 1997, Subject: State JTPA Waiver Plan - Public Hearing

STATE IMPOSED REQUIREMENTS:

This Directive contains state-imposed requirements which are printed in ***bold, italic type***.

FILING INSTRUCTIONS:

Retain this Directive until further notice.

BACKGROUND:

The Department of Labor Appropriations Act for 1997 (Public Law 104-208) provides authority for the Secretary of Labor to grant states statutory and regulatory waivers of JTPA and Sections 8, 9 and 10 of the Wagner-Peyser Act, with specified exceptions. Waivers approved by DOL will be in effect for one year, starting July 1, 1997, through June 30, 1998. States may apply for waivers by submitting a plan including, but not limited to, the goals to be achieved, the expected outcomes, a description of the individuals impacted by the waivers, the monitoring process, and the public review and comment process.

The California State Waiver Plan was signed by the Governor and subsequently received by the Department of Labor (DOL) for approval on May 23, 1997. The plan, which was developed with the cooperation and input of a wide variety of stakeholders, contains the state's request for 12 waivers of the JTPA. Three of these waivers require systemwide changes in reporting and accounting procedures. If approved by DOL, these will be statewide waivers and consequently implemented in all SDAs.

The following three statewide waivers must be implemented by all SDAs:

- Reduce the cost categories to two, *administration* and *program*, for all programs.
- Replace the Youth Entered Employment Rate and Youth Employability Enhancements Rate with one Youth Positive Termination Rate performance standard.
- Replace Title III post-program follow-up requirements with Unemployment Insurance (UI) base wage file matching.

The remaining nine waivers are optional. Each SDA may choose to implement any one or a combination of the following waivers that best meet local needs.

- Allow stand-alone job search, job search assistance and work experience for all youth and adults.
- Allow post-termination services and training, including On-the-Job Training (OJT), for up to one year for all titles.
- Exclude Social Security Disability Income (SSDI) as income in determining eligibility for Title II services.
- Waive the requirement that youth OJT assignments must pay the average adult wage.
- Allow flexibility to offer the full range of employability enhancement training to all youth, regardless of age.
- Allow a 10 percent window for Title II-B, Summer Youth Employment and Training Program (SYETP), consistent with the Title II-C, year-round program.
- Allow prescribed use of limited JTPA Title II and Title III funds for employment generating activities.
- Exclude persons who transfer to another JTPA program for continuation of services from the calculation of the Entered Employment Rate for the title from which they were transferred.
- Allow the use of program income earned in one JTPA title for any JTPA title.

The DOL has committed to review and respond to state plans within 60 days of receipt. In order for SDAs to implement the specific waivers that they choose as soon as possible, they can begin the local review process prior to DOL approval.

POLICY AND PROCEDURES:

The Job Training Partnership Division (JTPD) will transmit guidance on the implementation of the three statewide waivers within 10 days after federal approval. If approved by DOL, the three statewide waivers will be effective retroactively to July 1, 1997. The nine remaining optional waivers will become effective after DOL approval and upon issue of the JTPA policy directive providing guidance for these waivers. The optional waivers will not be effective retroactively to July 1, 1997.

Requests by SDAs for waivers approved by DOL will be accepted by the state until September 30, 1997. If DOL approval of the state's waiver plan is delayed, the state may extend this deadline.

Through a public review and comment process, all SDAs should determine which of the optional waivers they will implement locally. The federal enabling legislation for waivers requires an inclusive public process. The state's waiver plan, which was reviewed extensively at the state level, contains assurances that there will also be a local public review process for each of the SDAs that adopt the optional waivers. Public notification of the review process may include publication in the area newspaper or a meeting called by the Private

Industry Council (PIC). Those waivers selected by each SDA should be marked on the attached form, Request for Waivers and Performance Agreement, which must be signed by the Local Elected Official (LEO), the PIC Chair and the SDA Administrator. By accepting these waivers, the SDA agrees to adopt the associated performance improvements. This agreement will become part of the SDA's Job Training Plan, and the waivers will be incorporated into the monitoring process. If an SDA does not wish to implement any of the optional waivers, the form must be returned with only the pre-checked box for statewide waivers, and the assurance of the LEO, PIC, and SDA Administrators that the performance measures for those three waivers will be adopted.

The SDAs must further:

- a) verify that the required groups were given the opportunity to review and comment on the proposed waiver(s);
- b) describe the local public process for adopting waivers;
- c) describe the process for removal of barriers, i.e., policies, guidelines, rules and regulations promulgated locally (this criteria is required by DOL guidelines, and has been assured by the state's plan); and
- d) include the date(s) of implementation for the selected optional waivers.**

REQUEST FOR WAIVERS AND PERFORMANCE AGREEMENT

The Request For Waivers and Performance Agreement (see attachment, page 1) documents the performance improvements that SDAs must achieve if selecting specific waivers. The percentages represent the expected performance increases over the Program Year 1995-96 state calculated performance standards. While the state will not impose financial sanctions for noncompliance with the increased performance measures, SDAs may not be eligible for future optional waivers if they fail to meet these goals.

All SDAs must meet the three percent increase for the three statewide waivers. For all other selected waivers, total each column in the "CUMULATIVE TOTAL" box. The percentage cap for each of the three performance standards cannot exceed five percent.

The Employment Development Department (EDD) will notify SDAs as soon as it receives approval of the waiver package from DOL. If there are any questions related to the form submitted by an SDA, their JTPD Program Manager will contact them immediately to resolve any issues.

ACTION:

Determine which of the optional waivers the SDA wishes to implement. Begin the public process for local approval. Send the Request for Waivers and Performance Agreement form in as soon as this process has been completed. Send the form to:

Jim Curtis, Manager
Program Management Section
Job Training Partnership Division
Employment Development Department
800 Capitol Mall, MIC 69-1
Sacramento, CA 95814

INQUIRIES:

For more detailed descriptions of the waivers, you may access the plan on the Internet, through the State Job Training Coordinating Council's home page at <http://www.sjtcc.cahwnet.gov>. If you do not have access to the Internet, you may call the Workforce Preparation Advisory Group at (916) 657-0227 for a copy.

If you have any questions about this Directive, please contact your Program Manager.

/S/ BILL BURKE
Acting Chief

Attachment

REQUEST FOR WAIVERS AND PERFORMANCE AGREEMENT

Name of SDA: _____

A. Waivers selected:

		Title II-C	Title II-A 77%	Title III	Other
		Youth Positive Terminations- Increase over PY 95/96	EER- Increase over PY 95/96	EER- Increase over PY 95/96	
<input checked="" type="checkbox"/>	3 Statewide Waivers <ul style="list-style-type: none"> Youth Positive Term. Rate. 2 Cost Categories, <i>Program and Administration</i> Title III PPFU 	3%			Maintain training levels
<input type="checkbox"/>	Stand Alone Job Search and Work Experience - Adults		3%		
<input type="checkbox"/>	Stand Alone Job Search and Work Experience -Youth	3%			
<input type="checkbox"/>	Stand Alone Job Search and Work Experience -Title III			3%	
<input type="checkbox"/>	Post-Termination Services				10% increase in wages for targeted group 1 year after placement
<input type="checkbox"/>	Exclude SSDI from income				5% increase in number of disabled adults
<input type="checkbox"/>	Youth OJT without adult wage requirement	1%			
<input type="checkbox"/>	Youth Employment Enhancements	1%			
<input type="checkbox"/>	10% Window for SYETP				Report to state
<input type="checkbox"/>	Employment Generating Activities		2%	2%	
<input type="checkbox"/>	Exclude transfers from performance calculations		2%	2%	
<input type="checkbox"/>	Use Program Income for any Title				Report to state
CUMULATIVE TOTAL		___%	___%	___%	
CAP		5%	5%	5%	
YOUR TOTAL (Lesser of CUM. TOTAL or CAP)		___%	___%	___%	

B. Verify that the following groups have been afforded the opportunity to review and comment on the proposed waiver(s):

- ☐ **Local Area Elected Officials and Private Industry Councils**
- ☐ **Educational and other Public and Private Non-Profit Agencies**
- ☐ **Labor Organizations requiring skills related to the proposed training**

C. Describe your local public process for adoption of the waivers:

D. Describe the actions you will take to remove local barriers (i.e., policies, guidelines, rules and regulations):

E. Date(s) of implementation for optional waivers:

F. Assurances and Signatures:

The _____ Service Delivery Area hereby adopts the performance goals associated with the three statewide waivers and with the optional waivers it has selected to implement, as indicated on page one.

LOCAL ELECTED OFFICIAL

DATE

PIC CHAIR

DATE

SDA ADMINISTRATOR

DATE